

RODNEY DINGMAN
Claimant

COMMERCIAL MECHANICAL, INC.
Respondent

TRANSPORTATION INSURANCE COMPANY
Insurance Carrier

(2) The Appeals Board finds that claimant has failed to establish that he suffered accidental injury arising out of and in the course of his employment and the Order by the Administrative Law Judge is, therefore, reversed.

The evidence establishes that claimant was injured in an automobile accident on June 15, 1994. Claimant does not contend this injury was compensable but alleges that he was subsequently injured again on August 23, 1994 while moving heavy items at work. The Appeals Board finds this testimony unpersuasive in the face of numerous medical records for treatment after the August 23, 1994 date showing that claimant has related his injury to the automobile accident. Not until late November 1994 did claimant relate his injuries to work activities. Claimant testified that he may have mislead the treating physicians because he did not want to cause trouble. This testimony also lacks persuasive weight in light of his other testimony, denied by his supervisor, that he had already told his supervisor of the accident before these entries in the medical records. The claimant's testimony is also undermined by evidence that he had reported previous work-related injuries within a day of the injury.

WHEREFORE, the Appeals Board finds that the Preliminary Order entered by Administrative Law Judge John D. Clark on February 9, 1995, should be, and the same is hereby, reversed.

IT IS SO ORDERED.

Dated this ____ day of May, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Dennis Phelps, Wichita, KS
D. Steven Marsh, Wichita, KS
John D. Clark, Administrative Law Judge
George Gomez, Director